

The ethics of police body-worn cameras

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Abstract: Over the past decade, police departments in many countries have experimented with and increasingly adopted the use of police body-worn cameras (PBWCs). Their use has been greeted with both enthusiasm and scepticism. This article aims to examine the moral issues raised by the use of PBWCs and provide an overall assessment of the conditions under which the use of PBWCs is morally permissible and desirable. It first reviews the current evidence for the effects of using PBWCs, and concludes that while there is reasonably good evidence that the use PBWCs creates benefits, these appear to be highly dependent on the policies that govern their use. On the basis of this review, the article sets out a teleological argument for the use of PBWCs, that is, the argument that police departments ought to use PBWCs because doing so brings about more good than bad. The final two sections of the article reviews two deontological objections to the use of PBWCs: the idea that use of PBWCs is based on or expresses disrespectful mistrust, and the idea that the use of PBWCs violates a right to privacy. It argues that neither of these objections is persuasive, and concludes that we should conditionally accept and support the use of PBWCs.

Over the past decade, police departments in many countries have experimented with and increasingly adopted the use of police body-worn cameras (PBWCs). A PBWC is a small camera attached to a police officer's uniform while on duty, typically to the shoulder or chest, which is capable of video and audio recording events, and of transmitting or storing these recordings for later retrieval. Their use has been greeted with both enthusiasm and skepticism, with enthusiasts highlighting the fact that the recordings can provide valuable evidence both in criminal prosecution cases and in complaints against police conduct, and skeptics contending that their use may be disrespectful or violate the privacy of police officers and private citizens. However, in spite of the heated public debate about them, to my knowledge, no serious academic work has attempted to assess the ethics of police body-worn cameras. This article aims to remedy the situation by examining a range of moral issues raised by the use of PBWCs, critically assessing which issues are of genuine moral concern, and providing an overall assessment of the conditions under which the use of PBWCs is morally permissible and desirable.

The article proceeds as follows. In section two immediately below I review the current evidence for the effects of using PBWCs. I conclude that there is reasonably good evidence that the use PBWCs produce benefits, but that the evidence is less compelling than one might expect, and that the effects of PBWCs appear to be highly dependent on the policies that govern their use. In section three, I present the teleological argument for the use of PBWCs, that is, the argument that police departments ought to use PBWCs because doing so brings about more good than bad. I note several qualifications about how to understand the goods and bads at stake, and suggest that the argument should be interpreted conditionally, as an argument that applies to those situations where the goods outweigh the bads and where no decisive deontological reasons count against it. The final two sections of the article reviews the two most obvious deontological reasons that might count against the use of PBWCs: the idea that use of PBWCs is based on or expresses mistrust in a disrespectful way, and the idea that the use of PBWCs violates a right to privacy. I argue that neither of these ideas are persuasive and conclude that we should conditionally accept and support the use of PBWCs.

The use and effects of PBWCs

The official motivation for introducing PBWCs is often three expected effects:

- that PBWCs will provide useful evidence in potentially controversial cases of interaction between police and citizens,
- that PBWCs will deter undesirable behaviour, above all the misuse of force by police, but also assaults against and harassment of police officers, unwarranted complaints, and attempts at bribery,
- that, partly as a follow-on effect of the first two effects, PBWCs will increase trust in and cooperation with police.¹

Since their initial implementation, a range of studies have examined the effect of using PBWCs on these and related outcomes.² Some initial studies showed very powerful effects. Perhaps the most famous study, a randomised controlled trial (RCT) in Rialto, California involving 54 police officers, testing across 988 police shifts, found that use-of-force was about twice as high in control conditions as when officers employed PBWCs, and a (statistically non-significant) ca. 90% lower rate of complaints against officers. (Ariel et al.,

¹ See (Ariel, Farrar, & Sutherland, 2015, p. 510; Coudert, Butin, & Le Métayer, 2015, p. 750; Pelfrey & Keener, 2018, p. 2; Yokum, Ravishankar, & Coppock, 2017, p. 2) It has also been suggested that there may be a benefit in drawing on the video material in training situations, i.e. by allowing officers to better learn from the experiences of their colleagues. (Coudert et al., 2015, p. 757; Richards, Roberts, Britton, & Roberts, 2017) This seems plausible, though arguably of lesser importance, since police training already involves or can involve video recreations of real or fictive scenarios. I shall not discuss this potential benefit, but I note that if I have underestimated it here it strengthens the argument for the use of PBWCs.

² For good, although non-systematic reviews of the literature, see (Lum, Koper, Merola, Scherer, & Reiou, 2015; , and Maskaly, Donner, Jennings, Ariel, & Sutherland, 2017) For a recent systematic review, see (Cubitt, Lesic, Myers, & Corry, 2017)

2015) However, as is widely recognized, many studies have serious limitations. First, the number of methodologically solid evaluations of the effects of using PBWCs is still small and the studies often involve small sample sizes, which means that the studies both individually and collectively have limited statistical power. Second, many of the promising results found in initial studies have not been replicable in subsequent studies. (Lum et al., 2015; Maskaly et al., 2017; White, Gaub, & Todak, 2018, pp. 2, 7-8; Yokum et al., 2017, pp. 3-4; Yokum, Ravishankar, & Coppock, 2019) Bearing these limitations in mind, what do the studies conducted so far indicate?

Overall, there is currently reasonably good evidence for the second effect, but very little evidence for the two other effects. Thus, a number of studies have found that introducing PBWCs leads to decreases in the use of force (Jennings, Lynch, & Fridell, 2015; White et al., 2018), and decreases in number of complaints lodged against police officers. (Ariel, 2016; Ariel, Sutherland, et al., 2016a; Grossmith et al., 2015; Hedberg, Katz, & Choate, 2017; Jennings et al., 2015; Morgan & Silverstone, 2017; Ready & Young, 2015; White et al., 2018).³

An important factor affecting the outcome appears to be the specific policies governing how PBWCs are used. When will they record, and what conditions will trigger the beginning or termination of recording? Where and for how long will the data of the recording be stored? Under which circumstances will it be accessible, and to who? As an illustrative example, a large, multi-site RCT involving eight police departments and 2122 officers found no effects on police use of force and a surprising, small, but statistically significant *increase* in assaults against officers using PBWCs. (Ariel, Sutherland, Henstock, Young, Drover, Sykes, Magicks, et al., 2016) However, subsequent analysis linked differences in the results between sites to officer discretion on how to employ the PBWCs: for the three sites where compliance was high, and use of PBWCs therefore consistent, use of force decreased by 37%. This effect was cancelled out by a large *increase* (71%) in the use of force at those sites where officers exercised high discretion. Ariel et al argue plausibly that this is due to the differences in induced deterrence, that is, as officer discretion over the use of PBWCs increases, deterrence decreases. Plausibly, the point of optimal deterrence is one in which officers have very limited or no discretion about whether and when to use PBWCs. (Ariel, Sutherland, Henstock, Young, & Sosinski, 2018) The authors further speculate that the increase in assaults may also be explained by the escalating effect of turning on the camera. (Ariel, Sutherland, et al., 2016b; see also Ariel et al., 2018)

³ Note, however, that a range of studies have also shown null or even negative effects for arrests and charges (Ariel, 2016; Grossmith et al., 2015; Hedberg et al., 2017; Ready & Young, 2015; Yokum et al., 2017), use of force (Ariel, 2016; Ariel, Sutherland, Henstock, Young, Drover, Sykes, Magicks, et al., 2016; Hedberg et al., 2017; Yokum et al., 2017) and complaints. (Yokum et al., 2017)

Policy design is further complicated by the way policies affect police officers' motivation and compliance. If officers perceive PBWCs as a technology of control, an expression of mistrust, and a risk to their career, their dissatisfaction is likely to manifest itself in overall lower work efficiency. Severe dissatisfaction can even lead to widespread sabotage. Stalcup and Cahn cite newspaper reports from US police departments where officers apparently sabotaged half of the antenna of their dashboard cameras while 80% of the audio-recording systems malfunctioned due to user error or intentional destruction, and where the introduction of PBWCs led officers to damage them, block the lens, or not turn them on.⁴ (Stalcup & Hahn, 2016, p. 495) Clearly, in cases of user-resistance escalating to sabotage, we get the worst of both worlds: the economic and motivational costs of using PBWCs with none of the benefits. It is not given, however, that police officers will protest or resist the use of PBWCs. Several studies have found that police officers favour their use, including indications that officers' attitudes towards PBWCs grew more positive with experience of using them. (Morgan & Silverstone, 2017; Pelfrey & Keener, 2018)

Police departments in different countries have adopted very different policies for the use of PBWCs. (Coudert et al., 2015, pp. 750-754, 758-759) Consider for ease of discussion two cartoon-style examples at opposite extremes of the policy spectrum:

Citizens' surveillance: PBWCs are required to be active and recording throughout the entirety of every police officer's work shift. The recordings are collected and stored on a server for two weeks, whereupon they are deleted, unless they become part of an investigation. Recordings are accessible only to citizens, only upon request in the course of filing a complaint against an officer, and then only of the specific recording of the incident at stake.⁵

Police surveillance: PBWCs are required to be worn by every police officer throughout the entirety of their work shifts. However, the beginning and termination of recording is entirely at the discretion of the police officer. Recordings are collected and stored on a server for as long as deemed necessary by the individual police department. Recordings

⁴ Such reports are not, *pace* what Stalcup and Cahn appear to imply, good evidence of the fact that police officers are resisting or will resist the use of surveillance technologies. We would want academic studies, preferably randomized controlled trials, to document such an effect. I take it that they do constitute weak evidence for the effect, however.

⁵ *Citizens' surveillance* is, perhaps unsurprisingly, reminiscent of the ACLU's recommended policy. However, their stance on the length of data retention is oddly ambiguous: the ACLU white paper insists that retention should be "measured in weeks not years", while the model policy includes a retention limit of six months. (American Civil Liberties Union, 2018; Stanley, 2015)

are accessible only upon request by a police officer in the course of investigating or prosecuting a criminal case.

Clearly, in the light of the considerations set out above we should expect the two policies to have very different effects. Since the central argument for PBWCs is that their use will bring about goods, this also means that the ethics of PBCWs can vary substantially depending on the policy adopted. In a slogan, we are never simply evaluating *the* use of PBWCs, but always *a* use, under a specific policy.

In the next section I set out the teleological argument for PBWCs, noting some important complications and qualifications, before we turn in the final sections to deontological objections against the use of PBWCs.

The teleological argument for PBWCs

The most common argument for PBWCs is teleological: we should allow police officers to employ PBWCs and devote public resources to purchasing them and maintaining the support systems they require, because using PBWCs creates important goods, and these outweigh the bads their use brings about.⁶

This is a good, if slightly underdeveloped argument. It is extremely plausible that any goods brought about by using PBWCs count in favour of their use, and conversely, that any bads their use brings about counts against them. However, to complete an argument for the ethical permissibility and/or desirability of employing PBWCs we have to make an all-things-considered judgement about how teleological reasons, and any others, cash out. In this section I first discuss the teleological reasons at stake, and then set out a conditional teleological argument, which we can pursue further in the final sections of the article.

The first and perhaps most important benefit that motivates the use of PBWCs is their potential for reducing police use of force. As we saw above, there is some evidence that PBWCs can produce this benefit, although it is rather more mixed than one might have hoped. Improving our understanding of when and why PBCWs appear to sometimes do this is thus an important ongoing research issue. Another, more overlooked issue is what kind of benefit the reduction is? Much of the literature appears to assume that police use of force is simply bad, and thus that a net reduction in police use of force is always desirable, and that PBWCs are therefore desirable if they have this effect. This is probably too strong – we can easily imagine situations in which decreasing the police use of force is all-things-considered bad. Consider:

⁶ It is perhaps worth stressing here that my approach is not consequentialist but deliberately impartial. Consequentialism holds that an action is morally permissible *iff* it has consequences at least as good as any available alternative action, where “action” includes e.g. the introduction or sustaining of a policy of PBWC-use. Inevitably therefore, consequentialists are concerned with teleology, i.e. the consequences of an action. However, any plausible moral theory will provide *some* role for teleology. Since the argument requires only this, it should be acceptable to consequentialists and deontologists alike.

Paragons. Prior to the introduction of PBWCs, police officers in this department only ever apply force when proportional and necessary.

Assuming (plausibly) that police officers ought to employ force when the force is necessary and proportional, the introduction of PBWCs in *Paragons* can only, therefore, reduce the use of force in a way that is morally bad.

However, use of force correlates closely with the genuine bad of harm to those individuals subject to the use of force, who will ordinarily experience the use of force as painful, stressful, and/or humiliating. Even in cases of justified use of force the correlation with harm constitutes *a reason* against it (this, after all, is the foundation of the necessity and proportionality requirements). In summary, a decrease in use of force is not intrinsically good but must be evaluated with respect to the harm the use of force would cause and the loss of any goods the use of force would have brought about (such as preventing harm to others).

Considerations similar to those above apply to the good of reductions in the number of complaints against police officers. When discussed as a potential benefit of using PBWCs, the assumption is often that complaints will be reduced because PBWCs deter both police behaviour that gives grounds for legitimate complaints and spurious complaints used e.g. as a means of harassing police officers. Let us grant that ordinarily either of these two effects count as goods. As above, however, the relationship between decreases in complaints and these effects may be complicated. (Ariel, Sutherland, et al., 2016a, pp. 295-296) We can imagine a situation where citizens frequently have grounds for complaint but seldom file complaints because the chance of success is miniscule. If the introduction of PBWCs gives victims access to evidence that increases the chance of filing a successful complaint, this may well lead to an *increase* in complaints. Furthermore, far from being lamentable, a temporary increase in complaints might be desirable in such a situation, since it will provide the police force with opportunity and incentive to adjust the behaviour of those officers giving citizens grounds for complaint. In short, the number of complaints is only a proxy for two effects of more intrinsic concern: ensuring that police officers perform their duties while respecting certain limits on their behaviour towards citizens, and that citizens do not file complaints against police officers without good reason.

Let us consider next the issue of the bads brought about by the use of PBWCs. These pertain broadly to the cost of using PBWCs, the potential negative uses of the data collected, and the public awareness of data-collection.⁷ Perhaps the most obvious but ethically somewhat trivial consideration is the expenditure of

⁷ If the use of PBWCs leads to more successful arrests and complaints, they will also involve additional punishment of police officers who are found guilty of some form of professional misconduct after a complaint is backed up with evidence from the PBWC, and of police officers or civilians convicted for criminal wrongdoing on the basis of such

resources required to purchase PBWCs and their support systems (e.g. servers for storage), to organize training of users, to maintain equipment, and to provide administration for all of these. The challenge here is primarily empirical rather than moral: accurately estimating or measuring resource expenditure will often be quite difficult.

More interestingly, philosophically speaking, the data collected by PBWCs can expose officers or civilians to humiliation, blackmail, and retaliation. As perhaps the most prominent example, humiliation can occur when the identity of an offender is revealed to her family, friends, colleagues or the general public through leakage of data. However, the problem can also apply to non-offenders, e.g. employees exposed doing something else after having called in sick, the partner in a relationship meeting with their lover, or the police officer voicing critical views of their colleagues, superior or department. The potential for blackmail follows on the heels of the first problem, since access to the data puts persons in a position to make demands of those vulnerable to humiliation backed up by the threat of sharing the data with relevant others. Finally, retaliation can target not only offenders themselves, but also e.g. friends or family of offenders caught on video, witnesses, victims and police officers, for a variety of reasons. As the ACLU notes:

“[C]ontinuous recording might feel as stressful and oppressive in those situations as it would for any employee subject to constant recording by their supervisor. [...] There is also the danger that the technology would be misused by police supervisors against whistleblowers or union activists — for example, by scrutinizing video records to find minor violations to use against an officer.” (Stanley, 2015, p. 3)

In addition to the costs of creating the data, and the negative effects that can follow from persons accessing the data, it is commonly held in the surveillance literature that awareness that data is being collected can deter not merely unwanted behaviour (e.g. spurious complaints), but also desirable behaviour. In the broader context of surveillance ethics, this is often referred to as the chilling effect, and recent years have seen several interesting studies that attempt to quantify it. (Marthews & Tucker, 2017; Penney, 2016, 2017; Schauer, 1978; Stoycheff, Liu, Xu, & Wibowo, 2019) As a simple example, we can imagine that officers will sometimes refrain from using force in situations where use of force is *actually* desirable, because the officer fears that use of force may be perceived as excessive and hence subject to reprimands. (Coudert et al., 2015, p. 757) There is some evidence that introducing PBWCs can lead to a decrease in arrests and an increase in traffic

evidence. Punishment involves causing harm, and harm is a pro tanto bad. I do not include these as considerations against the use of PBCWs here because, presumably, the good of such punishments (in the shape e.g. of beneficial deterrent effects) outweigh the bad, and if not, I would argue that the problem lies with miscalibration of the system of punishment rather than with the use of PBWCs.

citations, at least one possible interpretation of which is that risk aversion leads officers to not make certain arrests that they ought to make, and to give citations when a warning might have been preferable. (Ready & Young, 2015)

In addition to the above, there are three considerations that might be thought to count against the use of PBWCs, but which I will set aside. First, I shall assume that PBWCs are not used with facial recognition technology as part of a more comprehensive scheme of public surveillance. Since PBWCs can be used without facial recognition technology – and indeed have mostly been used in this capacity – the question of whether it is permissible to add facial recognition technology to them is a further issue, which merits separate consideration. Second, there are interesting and technically challenging issues of how to best transmit and store data so as to avoid tampering and leakages, but I shall not go into these here. (Coudert et al., 2015, p. 756) I will assume that we are considering the use of PBWCs in a context where the data is ordinarily reliably transferred and stored.⁸ As above, this is not because these issues do not merit attention, but because they can and should be considered separately. Third, and most importantly, I set aside here opportunity costs. Perhaps the most potent objection against a teleological argument for the use of PBWCs is that it is extremely unlikely that the resources could not have done *even more* good, had they been allocated to some superior purpose, such as fighting disease and alleviating poverty in low-income countries. This line of argument will be familiar to those who have followed the debate about effective altruism over roughly the past decade. (Gabriel, 2016; MacAskill, 2015; Singer, 2009, 2010; Unger, 1996) I believe the objection is fundamentally sound – teleology does require taking into consideration opportunity costs – but I set it aside here both because this belief is unlikely to be shared by many concerned with the permissibility of using PBWCs, and because it seems to me that it should often be possible to employ them without thereby diverting resources from a clearly more beneficial pursuit.⁹

Having considered the values at stake, let us now consider **the teleological argument for the use of PBWCs:**

- 1) Using PBWCs brings about certain goods, including deterring undesirable behaviour such as police use of excessive force and spurious complaints against police, as well as certain bads, including direct economic costs to introduce and maintain PBWCs and support systems, harms resulting from misuse, and chilling effects; the good that employing PBWCs brings about outweighs the bad.

⁸ That is, I consider the potential for misuse and abuse by those persons who do have access to the material, but not the issue of how to technologically prevent persons, who ought not to have access, from gaining access, and the associated risks.

⁹ That is, while it might be ideal to allocate the resource pool to e.g. fighting disease, it will rarely in practice be possible for the relevant agent to do so. A police chief considering whether to introduce PBWCs in her department will typically face a much narrower set of alternative allocations of the resources, e.g. training, performance bonuses, upgrades of equipment, renovation of facilities, community outreach, etc.

- 2) If the good that employing PBWCs brings about outweighs the bad, then there is an overall teleological reason for police to employ PBWCs.
- 3) If there is an overall teleological reason for police to employ PBWCs, and no deontological reason or set of reasons against police employing PBWCs, which override or entail the outweighing of the teleological reason to employ PBWCs, then it is all-things-considered permissible that and police ought to employ PBWCs.
- C) It is all-things-considered permissible for and police ought to employ PBWCs *unless* there is a reason or set of deontological reasons against using PBWCs, which override or entail the outweighing of the teleological reason to employ PBWCs.

Belying its apparent simplicity, I believe the argument requires several comments and qualifications.

First, the argument is conditional since this seems to me the easiest way to structure the discussion of it, and because I do not wish to rule out the possibility that a relevant deontological reason exists. If we wanted, we could easily create an unconditional version by adding the premise that there is no relevant deontological reason and revising the conclusion accordingly. It will make little difference in the following whether we take the purpose of reviewing deontological objections to the use of PBWCs to be assessing the condition or a hypothetical fourth premise.

Second, deontological reasons can directly outweigh the overall teleological reason, they can cancel it (or some subset of teleological reasons), they can override it, or some combination of the above. My phrasing is meant to capture all of the possibilities that result in the balance of reasons shifting against the permissibility of using PBWCs.

Third, premises 2 and 3 are very plausible general claims in moral philosophy. I can think of no reason why anyone would deny them, and I shall assume that they are true.

Fourth, however, our review of the evidence and qualifications for premise 1 above illustrated that its veracity is not equally clear. Nonetheless, I will assume in the following that it is true, or more precisely, that we are considering the use of PBWCs in those situations where it is true. Partly this is because it seems to me that its being true is an uncontroversially necessary condition for permissible use of PBWCs. Even if one thinks that there can be situations, where an action is morally permissible although it does more bad than good, I cannot imagine anyone would think that this is the case with respect to the use of PBWCs. Thus, the issue of the permissibility of the use of PBWCs only genuinely arises for those situations where premise 1 holds, so that it seems reasonable to focus our ethical analysis on that subset. At the same time, the studies conducted so far seem to me adequate grounds for cautious optimism that the premise will *actually* be true in liberal

societies given a suitable policy structure. Designing that policy structure for a particular context and evaluating whether the premise then holds is likely to be both a challenging and interesting task, but it is one that moral philosophers are better off leaving to scholars of disciplines more suited to pursuing its solution.

Given this assumption, the argument is sound, which means that the next task is that of considering whether there might be deontological reasons that count against using PBWCs. It is to this question that the remaining two sections of this article are devoted. Specifically, I will review arguments to the effect that using PBWCs is mistrustful in a morally problematic way, and that the use of PBWCs can violate a moral right to privacy.

Is employing PBWCs a morally problematic form of mistrust?

One argument against the use of PBWCs, which is sometimes offered by police spokespersons, is that PBWCs are bad and should not be employed because their use constitutes a morally problematic form of mistrust of police officers. In reviewing this objection, we must be careful to separate the claim at stake from a closely related claim. It is obvious that police officers may *feel* that the use of PBWCs is a form of mistrust towards them, and that this may have various negative effects, e.g. for their motivation. Such negative effects, however, have already been covered as part of the teleological argument for PBWCs. If we are to avoid simply restating an element of that argument, then the claim at stake here must be different. The objection proper is rather the idea that *independently* of any negative effects, the fact that introducing PBWCs is a form of mistrust makes their use morally problematic.

There are two parts to this claim that must be considered separately: First, in what sense is using PBWCs mistrustful? And second, why is this form of mistrust morally problematic? We must be careful to consider these separately, but also to not equivocate. Whatever answer we give to the first question must be imported when considering the second. It will not suffice, for an objection against PBWCs, to establish that the use of PBWCs instantiate mistrust in one sense, only to argue that mistrust in a different sense can be morally problematic.

In what sense, then, can the use of PBWCs be said to be mistrustful? On the one hand, such use might be held to *express* mistrust, that is, to imply that police officers are not trustworthy, for else why would it be necessary to monitor their actions? On the other hand, the use of PBWCs might be held to *be motivated by* mistrust, that is, to be employed only by authorities who believe that police officers cannot be trusted, for why else would such authorities want to monitor police officers' actions? It is also possible, of course, to hold that the use of PBWCs both expresses and is motivated by mistrust.

Mistrust in either of these senses is related to a belief, which is either implied by or motivates the action. An obvious question therefore is how more precisely we ought to understand the content of this belief. Crucially,

mistrust could conceivably cover a range of claims of varying strength. For illustration, consider an extremist version:

Paranoid mistrust: all police officers will violate their professional obligations at every opportunity unless deterred by the constant monitoring of an authority capable of imposing sanctions.

Presumably, nobody will seriously suggest that any mistrust at stake in the use of PBWCs need be of this paranoid variety. It is exceedingly implausible that proponents of PBWCs hold this belief, or that employing PBWCs can reasonably be interpreted as implying it. Consider for comparison a minimalist version:

Bare hypothetical mistrust: there is at least a theoretical chance that at least one police officer might at one point violate their professional obligations and that monitoring by an authority capable of imposing sanctions could deter this.

This minimalist claim is overwhelmingly likely to be true, and it is also very plausible both that proponents of PBWCs hold and are motivated by it, or a stronger comparable belief, and that the use of PBWCs can be interpreted as implying it, or some stronger comparable belief. Between the extremist and minimalist versions there is, of course, a whole spectrum of possible beliefs, and it is not, I think, clear exactly where on this spectrum the actual claims expressed or held by proponents of PBWCs might lie.

Now let us consider the second issue, of what might be morally problematic about mistrust. The most obvious possibility, it seems to me, is that an expression of or motivation by mistrust is morally problematic because it is disrespectful, in the sense that it expresses or rests on a false belief, which ascribes a morally worse status to the agent than she actually has. Such accounts of disrespect are reasonably well developed in other contexts. (Stephen L. Darwall, 1977; S.L. Darwall, 2006; Eidelson, 2015; Frankfurt, 1997; Hellman, 2008) Note that all features of this description are necessary. It is not obvious that I am disrespectful if I attribute to some person a morally undesirable characteristic, which she actually possesses. Labelling the misogynistic workplace-tyrant a chauvinist or calling the pathologically lying career politician a swindler accords to that person the respect that she merits, or, which is perhaps to say the same thing, is disrespectful only in a morally unproblematic way.¹⁰ Similarly, it is not clear that I am disrespectful to a person if I overestimate the extent to which she possesses some morally desirable characteristic. Attributing greater kindness to my child, or diligence to my colleague, than they actually exhibit, is intuitively not problematic in the same way. There

¹⁰ Friends of disrespect accounts are not, it seems to me, always careful to distinguish between purely descriptive senses of disrespect, in which we might say that we disrespect the chauvinist or the swindler, and evaluative senses of disrespect, in which disrespecting other persons is something which we ought, all else equal, to avoid.

may be problems with such idolising, particularly I think the implicit demands this can make on those idolised, but if so these are best considered separately. Finally, note that disrespect presumably comes in degrees, and that there is presumably a more or less direct correlation between the degree of disrespect and the degree of moral badness. If disrespect is morally bad, then it is morally worse *because* more disrespectful to mistakenly label someone a moral monster than it is to mistakenly label the same person a moral petty villain.

The **disrespectful mistrust challenge to PBWCs** might then (loosely formulated) be the following:

- 1) The use of PBWCs implies or is based on a belief that police officers are likely to violate their professional obligations.
- 2) This is disrespectful, because it attributes to police officers a worse professional character than they actually possess.
- 3) Disrespect of this form and extent is morally bad, such that it either outweighs or overrides the teleological reason for the use of PBWCs.

There are at least three ways to defend the use of PBWCs against this challenge, focused on each of the premises in turn.

First, one might argue that, *pace* premise three, the badness of any disrespect does not outweigh or override the teleological reason for the use of PBWCs. One reason why this might be so, is if disrespect is simply not morally bad. Although I believe that argument can be made quite persuasively I will not pursue it here, since it seems to me that there are easier ways of defending the teleological argument for PBWCs against the challenge.¹¹ A simpler way to support the first line of defence builds on the observation that, as we have noted, it seems clear disrespect is morally worse the greater the disrespect. Thus, even if the use of PBWCs is mistrustful, and this mistrust is disrespectful, and disrespect is morally bad, it does not follow that the disrespect at stake is *sufficiently* bad that it outweighs or overrides the teleological reason in favour of using PBWCs. It would rather appear to be an open question whether the disrespect at stake in any concrete situation is sufficiently great to make the use of PBWCs impermissible, and an open question to which the opponent of PBWCs will find it difficult to provide a satisfactory answer.

As a second defence, one might argue that, *pace* premise one, the use of PBWCs need not imply or be based on any beliefs, mistaken or otherwise, about the professional character of police officers. A first approach at this line of defence raises the question of how we are supposed to determine, whether a policy or practice expresses or is based on a certain belief? We might of course be in the fortunate situation that the agents responsible for the policy or practice are explicit about the role of the belief: “Introducing PBWCs will put a

¹¹ For strong criticism of disrespect accounts of wrongful action see (Lippert-Rasmussen, 2013; Pettit, 1989)

stop once and for all to the many violations perpetrated by police officers!” But excluding this scenario, how do we decide what the policy or practice expresses and/or is based on? Proponents of PBWCs might hold that their use expresses or is based on e.g. concern for police officers (since they provide evidence that can protect against false accusation of police harassment) and the public (since they can provide evidence that can ensure convictions). In many situations it likely that there will be ample room for reasonable disagreement about what the use of PBWCs expresses, and what beliefs their use is motivated by.

A second approach to the second line of defence can point out that a policy or practice might express and/or be based on a number of beliefs. Does it matter which role the particular belief plays in the larger scheme of things? Is it, for example, reasonable to say that the entire policy or practice becomes disrespectful, if the particular belief that is supposed to make it so plays only a very minor part, and the more important beliefs expressed and held are morally unobjectionable or perhaps even laudable? In at least some situations it might sound more plausible to say that the particular belief is morally bad, but that this is insufficient to render the policy or practice as a whole morally bad because disrespectful.

Perhaps there are counters to these two approaches to the second line of defence. If so there remains the third, and to my mind, strongest line of defence: that even if the use of PBWCs expresses or is based on mistrust, *pace* premise two this mistrust need not be disrespectful, because such a belief is not necessarily mistaken. Recall two facts we previously observed, that there is a range of mistrustful beliefs, the weakest of which are fairly innocuous, and that even a negative belief, such as mistrust, is only disrespectful in the sense that is morally bad, if it is mistaken. Thus, it is only if the use of PBWCs expresses or is based on a level of mistrust that is greater than the situation warrants, that this mistrust can be held to be disrespectful.

How much mistrust do actual police officers warrant? We can imagine situations in which any substantial level of mistrust is unwarranted, but these belong in the realm of thought experiments. As criminological studies have amply shown, real-life police departments are places where mistakes are made. (E. Armacost, 2004; Eitle, D’Alessio, & Stolzenberg, 2014; Harris, 2009; Kane & White, 2009) There will be variations from one context to another, obviously. Some police departments probably warrant a great deal of mistrust, since a combination of institutional and situational factors make them places in which police violations of professional obligations are endemic. Other police departments probably warrant fairly limited mistrust, since they are places where such violations occur only sporadically, and primarily because of a few individual police officers – the “bad apples”. The underlying point, however, is that it seems entirely appropriate to express or hold some degree of mistrust towards any police department.

Does the use of PBWCs express or rest on a greater degree of mistrust than this? It seems to me very difficult to establish with any certainty that it does. The proponent of the disrespectful mistrust challenge must clear

two very difficult hurdles to substantiate the charge. First, she must determine with some reasonable degree of accuracy what the appropriate level of mistrust is. Second, she must show not only that we can reasonably interpret the use of PBWCs as expressing or resting on mistrust, but that the level of this mistrust is greater than that which she has established is warranted in the situation. To my knowledge no one has yet attempted to lift this argumentative burden, and I do not know how a proponent attempting to do so might proceed. At best this leaves the mistrustful disrespect challenge severely underdeveloped, and the proponent with a great deal of work ahead of her. At worst, the difficulties involved suggest that we ought to discard the challenge entirely.

Does the use of PBWCs violate a moral right to privacy?

Let us consider finally perhaps the most commonly cited concern with the use of PBWCs: their effect on the privacy of officers and citizens. (e.g. Ariel et al., 2015, p. 529) It is important to make a vital clarification of the objection to PBWCs at stake here at the outset: It seems obvious, that police officers can act in ways that problematically decrease persons' privacy. A police officer who sneaks into a civilian residence to observe a couple having sex is intuitively and uncontroversially doing something morally wrong, and privacy seems to be a prominent and necessary part of explaining the wrongness. What we are considering, however, is the difference that the use of PBWCs makes. Reviewing situations where police officers violate privacy with or without PBWCs will not be informative. Therefore, I shall assume that we are considering the use of PBWCs only in those situations, whatever more specifically these might be, where police officers can ordinarily perform their duties without impermissibly infringing on personal privacy, and that the objection is that introducing PBWCs in these situations somehow creates a problem of privacy.

This restriction does not steal the critic's thunder, because even authors sympathetic to the use of PBWCs clearly often believe that their ordinary use involves loss of privacy and that this counts against their use. Thus, Coudert et al argue that:

“The first interference, into police officers' privacy, can be justified by the need to protect citizens from a disproportionate use of force. The police enjoy extraordinary powers, mainly the one of exercising force in order to maintain public safety. Society thus holds a legitimate interest in requiring that the exercise of this power should be answerable, directly or indirectly. [...] The second interference, into citizens' privacy, can be justified by the higher social need to ensure the accountability of police forces or the more specific need to protect police forces' physical integrity. The use of one justification or the other will however have an impact on the conditions of the implementation of body-worn cameras.” (Coudert et al., 2015, p. 756)

This creates a tension with the apparent desirability of minimising officer discretion with respect to recording, which we noted while reviewing the effect of policies. For the purposes of producing beneficial deterrence, the ideal might be for PBWCs to record continuously throughout every shift of every active duty police officer, but for the purposes of preserving privacy, recording should apparently be kept to a minimum. Thus, Coudert et al. note that deterrent effects increase as police officers' discretion over the use of cameras decreases but claim that constant surveillance of police officers during their work is "an extreme measure that can only be justified under specific circumstances of greater risks for police officers or citizens. A trade-off must be found." (Coudert et al., 2015, p. 757) Similarly, with respect to civilians, Coudert et al claim that:

"[I]n some cases, a general duty to inform will not be sufficient and consent must be gathered before the recording takes place. This is particularly the case when police officers decide to film private dwellings, sensitive areas (such as hospitals), specific events or involve the collection of sensitive data (e.g. when the recording focuses on a crime victim)." (Coudert et al., 2015, p. 758)

In spite of how strong a position they adopt on privacy as a constraint on the use of PBWCs, Coudert et al do not offer any arguments for it. The claims are not strongly intuitive, and even if they were we would still want to know what grounds them, and how strong the reasons at stake are. So, what might the argument be?

Arguably, the most promising idea is that privacy loss can make the use of PBWCs impermissible when and because it violates a moral right to privacy. To assess an argument that the use of PBWCs will violate a right to privacy, however, we need to know what such a right consists in, what moral weight to ascribe it, and whether it would apply to the situation at hand, that is, to the use of PBWCs.

Rights fundamentally concern moral claims, whether it is a claim to the permissibility of Φ 'ing, a claim to the impermissibility of others preventing me from Φ 'ing, a claim to the impermissibility of others Φ 'ing, or a claim to the permissibility of me preventing others from Φ 'ing. This is, obviously, the conventional Hohfeldian analysis. (Hohfeld, 1913) In the context of a right to privacy, we are primarily concerned, I believe, with a claim to the impermissibility of others performing certain actions that would reduce a person's privacy, so I shall refer mostly to that in the following, but the points extend easily to any other component claims of a right to privacy.

I think we ought furthermore to distinguish two possible versions of a right to privacy, that differ in what they take the "right" in "right to privacy" to mean. On the one hand, we might take a right to be the *ground* of a moral claim, in which case you have a right to a person not reducing your privacy *iff* there is a particularly strong deontological reason for its being impermissible that they reduce your privacy. On the other hand, we

might take a right to *be* a decisive moral claim, in which case you have a right to a person not reducing your privacy *iff* it is all-things-considered impermissible for them to reduce your privacy.¹² Since the issue at stake is the permissibility of privacy-reducing PBWC-use, a right to privacy in the second sense cannot be the basis of a challenge, so I shall assume that we are dealing with a right in the former.

Attempts at developing and defending a right to privacy along such lines have been made by a fair number of scholars. (e.g. Alfino & Mayes, 2003; Corlett, 2002; Davis, 2009; Griffin, 2007; Macnish, 2016; Marmor, 2015; McCloskey, 1980; Rickless, 2007; Wall, 2011) One approach might be to claim that there is a non-derivative deontological reason against depriving a person of privacy, which is to say that decreasing a person's privacy is (in at least some cases) wrong just because it is wrong. This approach faces extraordinarily powerful objections however, including Thomson's famous argument that it overlaps with rights that can more plausibly explain the wrongness of acts, and the strongly counterintuitive implications it would have in certain common situations. (Ryberg, 2007; Thomson, 1975) Furthermore, defenders of the right to privacy in the literature all but universally take the position that privacy is instrumental to more fundamental moral factors, such as the importance of being able to pursue autonomous projects or maintain valuable social relations.¹³ Thus, I will further assume that the right to privacy is grounded on such a more fundamental deontological reason.¹⁴

¹² John Oberdiek nicely draws out this distinction, albeit in a slightly different context and for different reasons. (Oberdiek, 2008)

¹³ Thus, Angelo Corlett believes that "a certain level of privacy, and a right to it being respected, is necessary for one to even attempt to become an authentic (project-pursuing) self in society". (Corlett, 2002, p. 336) Andrei Marmor develops a related argument in somewhat greater detail, when he argues that the fundamental interest protected by a right to privacy is the interest in the capacity to shape one's social relations with others. This includes shaping different types of relationships by sharing and withholding information, bestowing value on intimacy and honesty by allowing information to be withheld, and avoiding scrutiny of thoughts, feelings or actions about which one is sensitive. As Marmor argues, a world entirely without privacy would be one in which we would at once be unable to differentiate between how friends, colleagues and romantic partners knew us, unable to foster certain relationships by bestowing intimacy, and unable to think, feel or do certain things without fear of how others might react. (Marmor, 2015, pp. 8-11) Similar arguments have been advanced by a number of thinkers, including (Nagel, 1998; Rachels, 1975) Meanwhile, Steven Davis claims that: "It is the range and importance of the objects of the desires, the state of affairs, which are realized if the desires are fulfilled, to which privacy is contingently related that give moral grounding and thus, moral value to privacy. Since we place great moral value on respect, dignity, love, etc., we should place moral value on those states and activities that promote them, even if their promoting them is not necessary, but contingent on the structure and attitudes of different societies. [...] Given the importance of the values that privacy promotes, some of which themselves are moral rights, respect, and dignity, for example, it would follow that privacy is a right in those societies in which it plays an important or central role in fostering these important values. Hence, the justification for taking privacy to be a right is instrumental; it contingently fosters other values that we take to be of central importance in giving a moral value to our lives." (Davis, 2009, p. 466)

¹⁴ A slightly more prosaic reason for why I do not wish to here pursue the idea of a non-derivate reason against decreasing privacy is that I explore this approach to a right to privacy in more detail elsewhere. [Removed to preserve author anonymity]

The **right to privacy challenge to PBWCs** might then (loosely formulated) be the following:

- 1) The use of PBWCs decreases the privacy of police officers and civilians subject to recording.
- 2) There is a moral reason to not decrease privacy such that this reason either outweighs or overrides the teleological reason for the use of PBWCs.

The right to privacy objection to PBWCs immediately faces a dilemma. On the one hand it must avoid consequentialisation, that is, ending up pointing merely to yet another value that must be included in the teleological weighing. (Brown, 2011) On the other hand, it must claim that the use of PBWCs actually reduces privacy in a way that relevantly affects the interests at stake. Jointly, these two constitute a dilemma, I will argue, since it is not apparent that the objection can avoid the former without implausibly claiming the latter.

The challenge of consequentialisation is this: for any alleged moral factor for which privacy is instrumentally important, it is open to explain its importance simply in terms of being instrumentally valuable in promoting or protecting an intrinsic value. If for example social relations are valuable, intrinsically or instrumentally (e.g. to human flourishing or well-being), and privacy promotes or protects social relations, then we can explain the moral significance of privacy in strictly teleological terms. As with the mistrust objection above, these are concerns with which we have already engaged: the balancing of the good and bad of employing PBWCs. If privacy is valuable – instrumentally or intrinsically – then its loss will have to be factored into the equation for the teleological argument. The objection at stake, however, is that losing privacy can make the use of PBWCs impermissible for reasons above and beyond such negative consequences.

The most obvious way of supporting the right to privacy that avoids this challenge is to adopt a threshold view, something like the following: we have strong deontic reasons to protect some moral factor, such as autonomy. This moral factor requires a certain amount of privacy. Privacy is not itself valuable, and the relationship is not linear, so it is not the case that more privacy is necessarily better, or that we have telic reasons to promote privacy. But there are certain limits, beyond which loss of privacy impacts on this moral factor, and we therefore have strong deontic reasons to avoid loss of privacy beyond this threshold. Indeed, this seems to me the line of argument pursued by most proponents of a right to privacy.

The challenge for the threshold view is that it seems forced to claim either too little too little to condemn PBWCs or too much to be plausible. After all, the claim here is a dramatic one: if we do not preserve the required minimum of privacy, then some vital aspect of our human lives, such as our ability to form meaningful social relations, or to develop autonomous projects, will be damaged. Presumably, if that were the case, that is, if there were such thresholds, and privacy was reduced beyond that point, the persons affected would notice. And yet, it does not appear to be the case that the introduction of PBWCs has had

anything like this effect in practice. If the introduction of PBWCs in e.g. Metropolitan London has had widespread negative effects on the social relations or autonomy of Londoners, then Londoners seem to have failed to notice. This lack of apparent impact might be explained in several ways, of course. It might be a) because there are no such thresholds, b) because the use of PBWCs does not reduce privacy beyond a threshold, or c) because persons, for some reason, have not noticed what they have lost. The unenviable task for those who wish to object against the use of PBWCs that this violates a moral right to privacy thus seems to be to render more plausible the third than the first or the second of these explanations. Until a persuasive argument to that effect is provided, it seems to me that we can reasonably conclude that it is at the very least unlikely that the use of PBWCs violates a right to privacy.

Conclusion

Over the course of this article, I have first reviewed the empirical evidence on the effects of using PBWCs, and suggested that it gives grounds for cautious optimism, that with the right policy structure, using PBWCs can bring about substantial goods in the shape of a reduction of police misconduct and spurious complaints, which outweigh the cost in resources of using them, the risks the data collection creates, and any chilling effects. On this basis, I set out the teleological argument for PBWCs, suggesting that at least in the situations in which the good that using PBWCs brings about outweighs the bad, it is permissible and desirable to use them, unless there are deontological reasons that count against their use, and these reasons are sufficient to make their use impermissible despite the overall teleological reason in their favour. This led in turn to a critical review of two potential deontological objections to the use of PBWCs: the disrespectful mistrust challenge and the right to privacy challenge. Against the first, I argued that it is unclear that the use of PBWCs need involve mistrust, that the disrespect is sufficient to make their use impermissible, and that it is up to the critic to lift the heavy argumentative burden of showing that any mistrust at stake is great enough to be disrespectful. Against the second, I argued that a suitable right to privacy must be grounded in a more fundamental deontological concern, such as autonomy or intimate relations, for which a certain minimum of privacy is necessary, but that it is implausible that the use of PBWCs has in practice reduced privacy beyond this threshold without those affected noticing. The time has come to conclude.

I have made a number of important assumptions to support the argument in favour of using PBWCs, which merit repeating at this point, since they illustrate the contingent nature of the claim that the use of PBWCs is permissible and desirable. First, I set aside the use of facial-recognition technology and the challenge of data security. The argument depends either on PBWCs being used without facial-recognition technology, or on such technology being independently shown to be permissible, and on there being appropriate levels of data security. I also set aside the issue of opportunity costs – if there turn out to be more worthwhile uses of

the resources society could devote to introducing or using PBWCs, then the argument for them falters. Finally, I have reviewed what seem to me the two strongest deontological objections to the use of PBWCs, and shown why neither is capable of prohibiting their use. But I cannot, of course, rule out the possibility of either of these objections being revised and persuasively presented, or of an alternative objection being presented, which I have overlooked. The argument stands only so long as these possibilities are not realized. Bearing all these qualifications in mind, my conclusion remains that the use of PBWCs appears to be both permissible and desirable.

There remain plenty of legitimate concerns with the employment of PBWCs, but they are concerns that are amenable to solution rather than concerns that fundamentally challenge the permissibility of using PBWCs. Thus, there may be cases where the use of PBWCs is undesirable, either because the institutional climate does not allow the appropriate policies to be implemented, or because external conditions are unfavourable. But this is not, so far as evidence allows us to see, the case in the liberal, wealthy societies where PBWCs have so far been most widely introduced, and where debate about their use has been most focused. There may also be cases where PBWCs are actually introduced with inappropriate policy-structures, and where it is therefore true that it would have been better had they not been introduced. But this does not mean that PBWCs cannot be used with the appropriate policy structure, nor that the solution in those countries is removing PBWCs rather than fixing policies.

Debate about the use of PBWCs tends, like so many debates about important new technologies, to splinter participants into opposing camps who are either strongly in favour or vehemently opposed. Throughout this article, I have attempted to show that the issue is complex, and that while there is a good argument in favour of using PBWCs, it is both narrower in the scope of its conclusion and more dependent in its premises than proponents might have hoped. Thus, to both critics and supporters of PBWCs I say that the answer to the question of whether the use of PBWCs is morally permissible and desirable in a particular case must be a resounding “Probably, but it all depends...”¹

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